



07-14-03

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JUL 15 2003

OFFICE OF PETITIONS

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

IN RE APPLICATION OF:)
)
Alexander K. Mills)
)
FOR: **METHOD FOR NONINVASIVE**)
CONTINUOUS DETERMINATION)
OF PHYSIOLOGIC)
CHARACTERISTICS)
)
SERIAL NO. **10/008,245**)
)
FILED: **November 7, 2001**)
)
ART UNIT NO: **3736**)
)
EXAMINER: **M. J. Kremer**)
)
Attorney Docket No: **WT-02-004C**)

SUPPLEMENTAL PETITION TO ACCEPT
AN UNINTENTIONALLY DELAYED PRIORITY
CLAIM UNDER 37 C.F.R. 1.78(a)

Commissioner for Patents
Box DAC
P.O. Box 1450
Alexandria, VA 22313

Dear Sir:

On May 15, 2003, Applicant submitted a Petition to Accept an Unintentionally Delayed Priority Claim Under 37 C.F.R. 1.78(a). The Petition set forth the inadvertent, unintentional actions resulting in Applicant's failure to timely claim priority to Application No. 09/684,104. A copy of the May 15, 2003 Petition is attached in Appendix A.

On June 19, 2003, Applicant submitted a response (Amendment A) to the April 2, 2003, Office Action issued in subject Application No. 10/008,245. An executed Supplemental Declaration was also submitted with the Response.

Adjustment date: 07/15/2003 AWONDAF1
05/20/2003 AWONDAF1 00000046 10008245
01 FC:1461 -1240.00 OP

07/15/2003 AWONDAF1 00000123 10008245 1300.00 OP
01 FC:1454

On June 19, 2003, Applicant's Petition was dismissed. The basis for the dismissal was Applicant's failure to submit a copy of the June 19, 2003 Amendment and submittal of insufficient fees.

Applicant accordingly submits herewith copies of the June 19, 2003 Amendment and Supplemental Declaration (see Appendix B) and the additional fees under 37 C.F.R. 1.17(t) in the amount of \$60.00.

Applicant thus respectfully requests reconsideration of Applicant's claim of priority to Application No. 09/684,104.

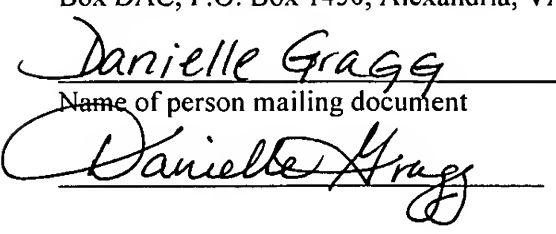
Respectfully submitted,
FRANCIS LAW GROUP

By: 

Ralph C. Francis
Reg. No. 38,884

Dated: July 11, 2003
1808 Santa Clara Avenue
Alameda, CA 94501
Tel: (510) 769-9800

I hereby certify that this document is being deposited with the United States Postal Service on this date 7-11-03 in an envelope as "Express Mail Post Office to Addressee" Mailing Label Number EV348079983 US addressed to the Commissioner for Patents, Box DAC, P.O. Box 1450, Alexandria, VA 22313-1450.


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C O P Y

**PETITION TO ACCEPT AN UNINTENTIONALLY
DELAYED PRIORITY CLAIM UNDER 37 C.F.R. 1.78(a)**

Commissioner for Patents
Box DAC
P.O. Box 1450
Alexandria, VA 22313

Dear Sir:

On October 6, 2000, U. S. Application No. 09/684,104, entitled "Method for Noninvasive Continuous Determination of Physiologic Characteristics", was filed in the USPTO. The named inventor on the application, which issued as U.S. Pat. No. 6,537,225 on March 25, 2003, is Alexander K. Mills.

On November 7, 2001, the above referenced continuation-in-part application was filed in the USPTO. The application was assigned Attorney Docket No. WT-02-004C to reflect that the application was a continuation-in-part (CIP) of Application No. 09/684,104. The named inventor on the application, which is still pending, is similarly Alexander K. Mills.

The Utility Patent Application Transmittal Form that accompanied the application did not, however, indicate that the above referenced application was a CIP. The specification further failed to provide the appropriate reference to the prior filed application, i.e. Application No. 09/684,104. It is respectfully submitted that the noted inadvertent errors were unintentional.

On April 7, 2003, our office received the first substantive Office Action in the subject application. As set forth in the Declaration of Ralph C. Francis, filed concurrently herewith, upon receipt of the Action it was noted, for the first time, that the claim for domestic priority was not submitted with the application or indicated on the specification.

Applicant thus respectfully submits that the entire delay between the date the priority claim was due, i.e., November 7, 2001, and the date the claim is being submitted was unintentional.

Applicant submits herewith the requisite surcharge under 37 C.F.R. 1.17(t) in the amount of \$1240.00.

Applicant accordingly respectfully requests that the Applicant's claim of priority to Application No. 09/684,104 be accepted.

Respectfully submitted,
FRANCIS LAW GROUP

By: 

Ralph C. Francis
Reg. No. 38,884

Dated: May 15, 2003
1808 Santa Clara Avenue
Alameda, CA 94501
Tel: (510) 769-9800

CERTIFICATE OF MAILING

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